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12 UNITED STATES DISTRICT COURT
13 EASTERN DISTRICT OF WASHINGTON

14 UNITED STATES OF AMERICA,

15
16 Plaintiff,

17 vs.
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19 RONALD CRAIG ILG,

20 Defendant.
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Case No. 2:21-cr-00049-WFN

**DEFENDANT'S UNOPPOSED
MOTION TO SEAL RE: JENNIFER
VAN WEY, PSY.D. CLINICAL
TREATMENT SUMMARY**

Sentencing Hearing:

January 24, 2023 at 10:00 am

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25 COMES NOW, Defendant RONALD CRAIG ILG, by and through his
26 attorneys of record, Carl J. Oreskovich and Andrew M. Wagley of Etter,
27 McMahon, Lamberson, Van Wert & Oreskovich, P.C., and hereby moves the
28 Court for an Order sealing the Clinical Treatment Summary of Defendant
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1 Ronald Craig Ilg, MD (“Dr. Ilg”) completed by Jennifer Van Wey, Psy.D. This
 2 Clinical Treatment Summary is used in support of Dr. Ilg’s accompanying
 3 Sentencing Memorandum. This Motion is brought pursuant to Fed. R. Crim. P.
 4 49.1(d) and is supported by the following Memorandum of Law.
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7 MEMORANDUM OF LAW

8 Pursuant to Fed. R. Crim. P. 49.1(d), the Court “may order that filing be
 9 made under seal without redaction.” “Unless a particular court record is one
 10 traditionally kept secret, a strong presumption [exists] in favor of [public] access
 11 [to the record] is the starting point.” *Kamakana v. City & Cty. of Honolulu*, 447
 12 F.3d 1172, 1178 (9th Cir. 2006). Therefore, “[a] party seeking to seal a judicial
 13 record bears the burden of overcoming this strong presumption by meeting the
 14 compelling reasons standard.” *Kamakana*, 447 F.3d at 1178. However, the
 15 public’s right of access “can be overcome . . . by an overriding right or interest
 16 ‘based on findings that closure is essential to preserve higher values and is
 17 narrowly tailored to serve that interest.’” *Oregonian Publ’g Co. v. U.S. Dist.*
 18 *Court*, 920 F.2d 1462, 1465 (9th Cir. 1990) (quoting *Press-Enterprise Co. v.*
 19 *Superior Court*, 464 U.S. 501, 510 (1985)).
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1 In the situation at hand, the accompanying Clinical Treatment Summary
2 contains substantial private information in the form of statutorily-protected
3 medical information regarding Dr. Ilg's mental health. *See* RCW 70.02.005(1)
4 ("Health care information is personal and sensitive information that if
5 improperly used or released may do significant harm to a patient's interests in
6 privacy, health care, or other interests."); *accord* 45 C.F.R. § 164.502(a) ("A
7 covered entity or business associate may not use or disclose protected health
8 information, except as permitted or required by this subpart or by subpart C of
9 part 160 of this subchapter."). As such, various District Courts have likewise
10 ordered that mental health records be sealed in the court file. *See United States*
11 *v. Salisbury*, 2014 WL 1577196, at *3 (D. Nev. 2014) (unpublished) (forensic
12 report filed under seal); *see also United States v. Hutton*, 2020 WL 5018383, at
13 *2 (D. Mont. 2020) (unpublished) (noting that reports on defendant's
14 psychological condition shall be filed under seal); *accord United States v.*
15 *Caraang*, 2018 WL 2216103, at *6 (W.D. Wash. 2018) (unpublished) (forensic
16 psychological evaluation filed under seal).
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28 To the extent the public has a right of access to documents used in the
29 judicial decision-making process, pertinent excerpts and conclusions of the
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1 Clinical Treatment Summary are quoted in the accompanying Sentencing
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3 Memorandum. Furthermore, the Government, by and through Assistant United
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5 States Attorney Rich Barker, has advised the Government does not object to this
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7 Motion. Based upon the foregoing, good cause and compelling reasons exist to
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9 grant Defendant's Motion to Seal Dr. Van Wey's Clinical Treatment Summary.

10 RESPECTFULLY SUBMITTED this 12th day of January, 2023.

11 ETTER, McMAHON, LAMBERSON,
12 VAN WERT & ORESKOVICH, P.C.
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15 By: /s/ Carl J. Oreskovich

16 Carl J. Oreskovich, WSBA #12779

17 Andrew M. Wagley, WSBA #50007

18 *Attorneys for Defendant Ronald C. Ilg, MD*
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CERTIFICATE OF SERVICE

I hereby certify under penalty of perjury of the laws of the United States and the State of Washington that on the 12th day of January, 2023, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF System, which will send electronic service to all attorneys of record.

EXECUTED this 12th day of January, 2023 in Spokane, WA.

By: /s/Jodi Dineen
Jodi Dineen